



1      07-CV-00115-ORD

The Hon. Thomas S. Zilly

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7                    UNITED STATES DISTRICT COURT  
8                    WESTERN DISTRICT OF WASHINGTON  
9                    AT SEATTLE

10     UNITED STATES OF AMERICA,

11                    NO. C07-115TSZ

12                    Plaintiff,

13                    v.  
14                    SECOND DEFAULT JUDGMENT  
15                    OF FORFEITURE

16     TWO COMPUTER LAPTOPS,  
17     DELL POWEREDGE 2850 SERVERS,  
18     DELL POWEREDGE 4600 SERVER,  
19     DELL POWEREDGE 1850 SERVER,  
20     MISCELLANEOUS SERVER  
21     SOFTWARE, AND ASSORTED  
22     COMPUTER EQUIPMENT,

23                    Defendants.

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25       Plaintiff, United States of America filed its Verified Complaint for Forfeiture in  
26       rem on January 25, 2007. The Complaint alleged that the defendant two computer  
27       laptops; Dell Poweredge 2850 servers Dell Poweredge 4600 serve; Dell Poweredge 1850  
28       server; miscellaneous server software; and assorted computer equipment (sometimes  
      hereinafter collectively referred to as the "defendant computer equipment") are subject to  
      seizure and forfeiture to the United States pursuant to Title 21, United States Code,  
      Section 881(a)(2) because the property was used in distributing a controlled substance, or  
      was used or intended to be used to facilitate such distribution in violation of Title 21,  
      United States Code, Sections 841(a)(1) and 843(b).

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30       JUDGMENT  
31       SECOND DEFAULT ORDER OF FORFEITURE - 1  
32       UNITED STATES v. TWO COMPUTER LAPTOPS, et al.  
33       C07-115TSZ

34       UNITED STATES ATTORNEY  
35       700 STEWART STREET, SUITE 5220  
36       SEATTLE, WASHINGTON 98101  
37       (206) 553-7970

1       On February 24, 2007, Plaintiff instructed the U.S. Marshals Service to perfect  
2 personal service of the Verified Complaint for Forfeiture in rem, Notice of Complaint for  
3 Forfeiture in rem, and Warrant of Arrest in rem (complaint and related documents) upon  
4 Lisa Stevens, Charles Power and Richard Rowe. On February 26, 2007, copies of the  
5 complaint and related documents were also sent via registered mail, return receipt  
6 requested, to attorney Kevin A. Peck, counsel for Lisa Stevens, and to attorney Michael  
7 Nance, counsel for Charles Power.

8       On March 1, 2007, attorney Kevin A. Peck, counsel for Lisa Stevens, accepted  
9 service of process of the complaint and related documents on behalf of Lisa Stevens, and  
10 signed the Acknowledgment of Service, filed March 7, 2007. See Docket No. 5. Based  
11 upon Mr. Peck's representation of Lisa Stevens, the U.S. Marshals Service was instructed  
12 that service had been made, and a return of unexecuted service was filed, March 19, 2007.  
13 See Docket No. 8.

14       On March 7, 2007, attorney Michael Nance, counsel for Charles Power, accepted  
15 service of process of the complaint and related documents, and entered a Notice of  
16 Appearance on behalf of Charles Power, filed March 7, 2007. See Docket Nos. 6 and 7.  
17 Based upon Mr. Nance's representation of Charles Power, the U.S. Marshals Service was  
18 instructed that service had been made and a return of unexecuted service was filed on  
19 March 19, 2007. See Docket No. 9.

20       On April 9, 2007, the U.S. Marshal Operations Supervisor, Rick Ploof, confirmed  
21 that a Deputy United States Marshal attempted service upon Richard Rowe at 5811 203rd  
22 Street SW, Lynnwood, Washington. The deputy was told that "he no longer lived there."  
23 Another deputy made three additional attempts to perfect personal service upon Richard  
24 Rowe at the same address in Lynnwood; however, there was no answer.

25       On May 1, 2007, attorney Walter G. Palmer, Jr., counsel for Richard Rowe,  
26 accepted service of process on behalf of Richard Rowe, and signed an Acknowledgment  
27 of Service, filed on May 2, 2007. See Docket No. 14.

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JUDGMENT

SECOND DEFAULT ORDER OF FORFEITURE - 2  
UNITED STATES v. TWO COMPUTER LAPTOPS, et al.  
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1           On April 4, 2007, the defendant computer equipment was arrested by the U.S.  
2 Marshals Service.

3           The United States published notice of the arrest of the defendant computer  
4 equipment on April 19, April 26 and May 3, 2007, in The Daily Journal of Commerce.

5           Pursuant to the Court's Order filed on February 12, 2007, a Joint Status Report  
6 was filed in this matter. See Docket No. 10. The Joint Status Report was signed by  
7 Assistant United States Attorney Richard E. Cohen and attorney Michael Nance, counsel  
8 for Charles Power.

9           On February 7, 2008, the United States filed an Application for Order of Default;  
10 and on March 31, 2008, the Court issued an Order granting the United States' Application  
11 for Default. Default was entered against Lisa Stevens, Charles Powers, Richard Rowe  
12 (persons the United States believed had an interest in the defendant computer equipment),  
13 and any unknown persons who failed to plead, answer or otherwise submit a claim. See  
14 Docket No. 21.

15           On May 1, 2008, the Court herein issued a Judgment in a Civil Case, forfeiting the  
16 defendant computer equipment to the United States. See Docket No. 24.

17           After the Court issued a Judgment in a Civil Case, attorney Brian Esler, counsel  
18 for U.S. Bank National Association, contacted the United States Attorney's Office on  
19 behalf of U.S. Bank National Association, in regards to the defendant computer  
20 equipment, asserting that U.S. Bank National Association has a security interest in those  
21 assets, via a perfected Uniform Commercial Code filing. The United States did not know  
22 that U.S. Bank National Association had a potential interest in the defendant computer  
23 equipment prior to the United States' Application for Order of Default.

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SECOND DEFAULT ORDER OF FORFEITURE - 3  
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1 Because the United States did not serve notice of the complaint upon U.S. Bank  
2 National Association, and because in correspondence to the United States Attorney's  
3 Office, attorney Brian Esler, counsel for U.S. Bank National Association, claimed a  
4 perfected security interest in the defendant computer equipment on behalf of U.S. Bank  
5 National Association, on January 16, 2009, the United States filed a Motion to Set Aside  
6 Forfeiture Judgment and Reopen Civil Forfeiture Case to Permit U.S. Bank National  
7 Association to File a Claim.

8 In the Motion to Set Aside Forfeiture Judgment and Reopen Civil Forfeiture Case  
9 to Permit U.S. Bank National Association, it was specified that U.S. Bank National  
10 Association was to file a claim in the manner set forth in Rule G(5) of the Supplemental  
11 Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Federal Rules of  
12 Civil Procedure. Under the rule, such claim must be filed not later than 35 days after the  
13 date of service of the complaint. In addition, it was specified that U.S. Bank National  
14 Association once having filed a claim must also file an answer to the complaint not later  
15 than 20 days after the filing of the claim. Pursuant to the Certificate of Service, a copy of  
16 the Motion to Set Aside Forfeiture Judgment and Reopen Civil Forfeiture Case to Permit  
17 U.S. Bank National Association was mailed to attorney Brian Esler, counsel for U.S.  
18 Bank National Association on January 16, 2009. See Docket No. 25.

19 On January 22, 2009, the Court issued an Order Granting the United States'  
20 Motion to Set Aside Forfeiture Judgment and Reopen Civil Forfeiture Case to Permit  
21 U.S. Bank National Association to File a Claim. See Docket No. 26.

22 On February 10, 2009, the United States filed an Acknowledgment of Service  
23 wherein attorney Brian Esler, counsel for U.S. Bank National Association, accepted  
24 service of the complaint and related documents on behalf of U.S. Bank National  
25 Association. See Docket No. 29.

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JUDGMENT

SECOND DEFAULT ORDER OF FORFEITURE - 4  
UNITED STATES v. TWO COMPUTER LAPTOPS, et al.  
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1 On March 12, 2009, in e-mail correspondence between the United States  
2 Attorney's Office and attorney Brian Esler, counsel for U.S. Bank National Association,  
3 Brian Esler stated that U.S. Bank National Association "does not intend to file a claim...."

4 No claim of interest has been received or filed with the Court from U.S. Bank  
5 National Association or from any other person or entity, and the time allowed for filing of  
6 such a claim has expired.

7 On March 19, 2009, the United States filed an Application for Second Order of  
8 Default; and on March 20, 2009, the Clerk of the Court issued a Second Order of Default  
9 against U.S. Bank National Association and any unknown persons who have failed to  
10 plead, answer, or otherwise submit a claim. See Docket No. 32.

11 Now, therefore on motion by the Plaintiff, United States of America, for a Default  
12 Judgment for Forfeiture, it is hereby

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JUDGMENT  
SECOND DEFAULT ORDER OF FORFEITURE - 5  
UNITED STATES v. TWO COMPUTER LAPTOPS, et al.  
C07-11STSZ

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1 ORDERED, ADJUDGED and DECREED as follows:

- 2 1. This Court has jurisdiction over this action under Title 18, United States  
3 Code Sections 1345 and 1355. Plaintiff's motion for default judgment,  
4 Pursuant to Title 21, United States Code, Section 881(a)(2), the docket no. 33, is  
5 defendant two computer laptops; Dell Poweredge 2850 servers; Dell  
6 Poweredge 4600 server; Dell Poweredge 1850 server, miscellaneous server  
7 software, and assorted computer equipment are forfeited to the  
8 United States of America, and no right, title, or interest in the defendant  
9 computer equipment shall exist in any other party. Judgment is entered  
10 accordingly in favor of plaintiff.  
11 3. The United States Marshals Service shall dispose of the defendant two  
12 computer laptops; Dell Poweredge 2850 servers; Dell Poweredge 4600  
13 server; Dell Poweredge 1850 server; miscellaneous server software; and  
14 assorted computer equipment in accordance with the law.  
15 4. The Clerk of the Court shall deliver nine (9) raised seal, certified copies of  
16 this Default Judgment for Forfeiture to the United States Marshals Service,  
17 in Seattle, Washington.

18 DATED this 6 day of April, 2009.

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UNITED STATES DISTRICT JUDGE

Presented by:



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JUDGMENT  
SECOND DEFAULT ORDER OF FORFEITURE - 6  
UNITED STATES v. TWO COMPUTER LAPTOPS, et al.  
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